

TABLE OF CONTENTS

<i>Foreword by The Honourable Mr Justice Thomas Au</i>	v
<i>Preface</i>	vii
<i>Acknowledgements</i>	ix
<i>How to Use This Book</i>	xi
<i>Table of Cases</i>	xxix
<i>Table of Legislation</i>	xxxiii
<i>Table of Practice Directions</i>	li

CHAPTER 1 PRELIMINARY STAGES OF LITIGATION

1. Introduction	1.001
2. File Management	1.002
3. Preliminary Stages	1.003
4. The Client	1.006
(a) Initial contact	1.006
(b) Preparations for first meeting	1.014
5. The First Meeting	1.024
(a) Preliminary matters	1.024
6. Legal Aid	1.030
7. Taking the Client's Statement	1.031
8. Matters to be Explained to the Client	1.034
(a) Court and procedure	1.034
(b) Costs	1.035
(c) Court fees and other disbursements	1.038
(d) Settlement	1.040
(e) Mediation	1.042
(f) Accepting service	1.043
(g) Defendant's financial viability	1.044
(h) Discovery and privilege	1.046
(i) Evidence	1.048
(j) Counterclaim	1.049
(k) Counsel	1.050
(l) Fees	1.053
(m) Preliminary advice	1.054
9. Reviewing the Evidence and the Law	1.058
(a) Preliminary points	1.058
(b) Client's statement	1.059
(c) Evidence	1.060
(d) The law	1.064

1.067 2.3 Statement of Claim (Served Separately from Writ) 75
 1.072 2.4 Statement of Damages (for Personal Injury Claim) 78
 17 2.5 Defence and Counterclaim 81
 19 2.6 Defence 84
 24 2.7 Third Party Notice 87
 26 2.8 Affirmation/Affidavit in Support of an Application for Substituted Service 90
 27 2.9 Order for Substituted Service 93
 28

CHAPTER 3 INTERLOCUTORY SUMMONS AND AFFIDAVITS

1. Introduction 3.001
 (a) Summonses: preliminary points 3.005
 2. The Preparation of a Summons 3.008
 (a) Drafting the part of the summons dealing with the application 3.014
 2.001 (b) Costs 3.020
 2.005 3. Issuing a Summons, Including Fixing a Date for the Hearing 3.024
 2.006 (a) Hearings before masters 3.028
 2.008 (b) Hearings before judges 3.032
 2.010 4. Procedure Once the Date for Hearing the Summons is Fixed 3.033
 2.010 5. Service of the Summons 3.035
 2.012 6. Time Summons 3.040
 2.022 7. Preparing for the Interlocutory Summons Hearing 3.041
 2.028 8. Hearing the Summons 3.050
 2.032 (a) Drawing up the order 3.056
 2.035 (b) Orders made by consent and consent orders 3.069
 2.039 9. Affidavits and Affirmations 3.074
 2.049 (a) General points 3.074
 2.056 (b) The contents of an affidavit 3.078
 2.059 10. Exhibits 3.085
 2.065 11. The Form of an Affidavit 3.088
 2.074 12. Filing Affidavits 3.095
 2.082

Checklists

..... 48 3.1 Preparation of a Summons 116
 51 3.2 Issuing a Summons and Fixing a Date for Hearing 117
 53 3.3 Preparation for Hearing a Summons 118
 56 3.4 Consent Order/Consent Summons 119
 58 3.5 Preparation of Affidavits and Affirmations 121
 60 3.6 Drawing up an Order 122
 62
 63

Sample Documents

..... 64 3.1 General Form of Summons 123
 72 3.2 General Form of Affirmation 125
 3.3 General Form of Affidavit 129

10. The First Letter of Advice	1.067
11. Letter before Action	1.072
Checklists	
1.1 First Interview with Client—Simple Contract/Debt Claim	17
1.2 First Interview with Client—Simple Personal Injury Claim	19
Sample Documents	
1.1 Letter of Engagement.....	24
1.2 Letter before Action in a Simple Debt Claim	26
1.3 Letter before Action in a Complex Debt Claim	27
1.4 Letter before Action in a Simple Personal Injuries Claim	28

CHAPTER 2 PLEADINGS

1. Introduction	2.001
(a) Definition	2.005
(b) Statements of truth	2.006
2. The Checklists	2.008
3. Action before Drafting Pleadings	2.010
(a) Obtaining instructions from your clients	2.010
(b) Analysis of documents	2.012
(c) The parties to an action	2.022
(d) Legal status	2.028
(e) Governing law and jurisdiction	2.032
(f) Form of action	2.035
4. Drafting the Writ and Statement of Claim	2.039
5. Commencement of Proceedings	2.049
(a) Judgment in default	2.056
6. Consideration of the Defence	2.059
7. Action to be Taken on Behalf of the Defendant	2.065
(a) Action by the defendant on third party proceedings (RHC O.16)	2.074
8. Amendment of Pleadings	2.082
Checklists	
2.1 Action before Drafting Pleadings	48
2.2 Drafting the Writ and Statement of Claim	51
2.3 Commencement of Proceedings	53
2.4 Consideration of the Defence	56
2.5 Action to be Taken on Behalf of the Defendant	58
2.6 Drafting the Defence/Counterclaim	60
2.7 Service of a Reply	62
2.8 Action by the Defendant on Third Party Proceedings and Party and Party Proceedings	63
Sample Documents	
2.1 Generally Endorsed Writ of Summons with Acknowledgement of Service Form	64
2.2 Statement of Claim (Served with Writ)	72

CHAPTER 4 INTERLOCUTORY APPLICATIONS AND PRE-TRIAL STEPS IN AN ACTION STARTED BY WRIT

1. Introduction	4.001
2. Default Judgment	4.003
(a) Grounds	4.003
(b) Failure to give notice of intention to defend (RHC O.13)	4.005
(c) Admission in claim for payment of money (RHC O.13A)	4.009
(d) Default of defence (RHC O.19)	4.012
(e) Prerequisite for entering default judgment	4.016
(f) Costs	4.017
3. Time Summons	4.018
4. Further and Better Particulars (RHC O.18)	4.025
5. Amendment of Writ and Pleadings (RHC O.20)	4.036
6. Application for Interim Payment (RHC O.29 Part II)	4.045
(a) Object	4.045
(b) The application	4.046
(c) Contesting an application	4.052
(d) Order for interim payment in respect of damages	4.053
(e) Order for interim payment in respect of sums other than damages	4.056
(f) Manner of payment	4.058
(g) Non-disclosure of interim payment	4.059
(h) Adjustment on final judgment or order or on discontinuance (RHC O.29 r.17)	4.060
7. Case Management Stage (RHC O.25 and PD 5.2)	4.063
(a) Purpose	4.063
(b) Timetabling questionnaire	4.065
(c) Case Management Conference (CMC)	4.071
(d) Pre-Trial Review (PTR)	4.077
(e) Milestone dates	4.080
(f) Setting down for trial	4.081
Checklists	
4.1 Default Judgment: Acting for the Plaintiff	151
4.2 Default Judgment: Acting for the Defendant	152
4.3 Time Summons	153
4.4 Further and Better Particulars	154
4.5 Amendment of Writ and Pleadings	156
4.6 Interim Payment	159
4.7 Case Management	161
Sample Documents	
4.1 Application for Default Judgment (Debt or Liquidated Sum)	163
4.2 Default Judgment (Unliquidated Damages)	165
4.3 Affirmation/Affidavit of Service of Writ (Personal)	169
4.4 Time Summons	171
4.5 Statement of Claim	173

4.6 Request for Further and Better Particulars	177
4.7 Reply to Request for Further and Better Particulars	181
4.8 Order for Further and Better Particulars	185
4.9 "Unless" Order	187
4.10 Amended Statement of Claim	189
4.11 Summons	192
4.12 Consent Summons	193
4.13 Summons for Interim Payment in Respect of a Claim for Personal Injuries	194
4.14 Affidavit Supporting Summons for Interim Payment in Personal Injury Action	195
4.15 Affidavit Opposing Summons for Interim Payment in Claim for Personal Injuries	197
4.16 Order for Interim Payment	199
4.17 Timetabling Questionnaire	200
4.18 Consent Summons (for Case Management)	207
4.19 Case Management Summons	208
4.20 Listing Questionnaire (PD 5.2 Appendix C)	210
4.21 Setting Down for Trial (PD 5.2 Appendix D)	214
4.22 Certificate from Counsel	216

CHAPTER 5 SUMMARY JUDGMENT AND STRIKE-OUT APPLICATIONS

1. Introduction	5.001
2. Summary Judgment	5.003
(a) Timing and procedure for the application	5.009
(b) Issuing and serving the application	5.016
(c) Other affidavits—the defendant's affidavit and affidavits in reply	5.020
(d) The hearing itself	5.026
3. Striking out Pleadings	5.031
(a) The grounds on which the application can be made	5.034
(b) Timing and procedure for the application	5.039
(c) The respondent's reaction to the application and his evidence	5.046
(d) The hearing	5.051
(e) Orders which the court might make	5.052
4. Disposal of a Case on a Point of Law	5.057
Checklists	
5.1 Summary Judgment: Acting for the Plaintiff	231
5.2 Summary Judgment: Acting for the Defendant	233
5.3 Strike-Out Applications: Acting for the Applicant	234
5.4 Strike-Out Applications: Acting for the Respondent	235
Sample Documents	
5.1 Order 14 Summons	236
5.2 Affidavit in Support of Summary Judgment Application	238
5.3 Order 14 Judgment	241
5.4 Defendant's Affidavit Resisting Application for Summary Judgment	243
5.5 Summons under Order 18 Rule 19	246

5.6 Affidavit in Support of Application under Order 18 Rule 19	248
5.7 Order Striking out Action under Order 18 Rule 19	251

CHAPTER 6 INJUNCTIONS

1. Introduction	6.001
2. Circumstances in which a Permanent Injunction may be Obtained	6.003
(a) Prohibitory injunction	6.005
(b) Discretion to grant	6.008
(c) Mandatory injunction	6.009
(d) <i>Quia timet</i> injunction	6.012
(e) Availability of injunctions	6.013
(f) Interlocutory injunction	6.014
(g) Procedure	6.023
(h) Evidence	6.037
(i) Evidence of a good arguable case	6.039
(j) The adequacy of damages	6.040
(k) The balance of convenience	6.043
(l) Evidence on behalf of the defendant	6.047
(m) <i>Ex parte</i> application	6.050
(n) Service of the injunction	6.070
3. <i>Mareva</i> Injunction	6.081
(a) When the court will grant a <i>Mareva</i> injunction	6.085
(b) A good arguable case	6.086
(c) A real risk of dissipation of assets	6.087
(d) Assets of the defendant within the jurisdiction	6.090
(e) Limits of the <i>Mareva</i> injunction	6.091
(f) The "worldwide" <i>Mareva</i> injunction	6.095
(g) Other remedies available with a <i>Mareva</i> injunction	6.096
(h) Procedure to obtain a <i>Mareva</i> injunction	6.097
(i) Acting for the defendant	6.105
4. <i>Anton Piller</i> Order	6.108
(a) Introduction	6.108
(b) Circumstances in which an order may be obtained	6.111
(c) A strong <i>prima facie</i> case	6.112
(d) Serious damage for the applicant	6.113
(e) Evidence of possession: possibility of destruction	6.114
(f) Scope of the order	6.115
(g) Application to the court	6.133
(h) Service of the order	6.134
(i) Acting for the defendant	6.146
5. Enforcement of Injunctions: Committal Proceedings	6.149
(a) Procedure	6.152
(b) Evidence in support of a committal order application	6.159
(c) Orders which may be made by the court	6.161

Checklists	
6.1 General Procedure for Interlocutory Injunctions	289
6.2 Evidence in Support of an Application for an Interlocutory Injunction	291
6.3 <i>Ex Parte</i> Injunctions	292
6.4 Action after Obtaining the Injunction	293
6.5 Evidence in Support of an Application for a <i>Mareva</i> Injunction	294
6.6 Evidence in Support of an Application for an <i>Anton Piller</i> Order	295
6.7 Service of an <i>Anton Piller</i> Order	296
6.8 Committal Proceedings	298

Sample Documents

6.1 Summons for an Interlocutory Injunction	299
6.2 Affirmation in Support of an Interlocutory Injunction	301
6.3 Affidavit in Support of an Application for a <i>Mareva</i> Injunction	304
6.4 <i>Mareva</i> Injunction	308
6.5 Affidavit in Support of an Application for an <i>Anton Piller</i> Order	314
6.6 <i>Anton Piller</i> Order	319
6.7 Originating Summons for an Order for Committal	328
6.8 Statement in Application for Leave to Apply for Committal	331
6.9 Affidavit in Support of Committal Proceedings	335

CHAPTER 7 DISCOVERY

1. Introduction	7.001
2. Definitions	7.005
3. Process of Discovery	7.018
4. Electronic Discovery	7.024
5. Practical Tips	7.029
6. The Form of a List of Documents	7.032
(a) Schedule 1 Part 1	7.033
(b) Schedule 1 Part 2	7.034
(c) Schedule 2	7.036
7. Inspection	7.037
8. Inadequate Discovery	7.041
9. Discovery Against a Stranger	7.044
10. Pre-Action Discovery	7.046
11. Interrogatories	7.047

Checklists

7.1 Pre-Proceedings	356
7.2 From Commencement of Proceedings up to and Including Discovery and Inspection	358
7.3 Matters Subsequent to Initial Discovery and Inspection	364
7.4 Interrogatories	366

Sample Documents

7.1 Draft Letter to Client Explaining Discovery Obligations	368
7.2 List of Plaintiff's Documents	370
7.3 Interrogatories	375
7.4 Answers to Interrogatories	378

CHAPTER 8 EVIDENCE

1. What is Evidence?	8.001
2. What are the Key Issues and Issues of Fact?	8.004
3. Who Bears the Burden of Proof?	8.010
(a) The balance of probabilities	8.015
(b) Facts which do not require proof	8.017
4. Examination of the Different Types of Evidence	8.021
(a) Documentary evidence	8.022
(b) Evidence of witnesses of fact	8.029
(c) Expert evidence	8.050
(d) Real evidence	8.069
5. Admissibility of Evidence	8.077
(a) Hearsay evidence	8.082
(b) Evidence of convictions	8.087
(c) Preparing evidence during the course of the action	8.088
(d) The client consults you	8.089
(e) Commencement of proceedings and pleadings	8.090
(f) Interlocutory proceedings	8.092
(g) Discovery and inspection of documents	8.093
(h) Timetabling questionnaire and case management summons	8.096
(i) Preparation of witness statements	8.098
(j) Preparations for trial	8.099

Checklists

8.1 Initial Consultation with Client	403
8.2 Commencement of Proceedings and Pleadings	406
8.3 Interlocutory Proceedings	408
8.4 Discovery and Inspection of Documents—RHC O.24	410
8.5 Automatic Directions in Personal Injury Actions—RHC O.25 r.8	412
8.6 Timetabling Questionnaire and Case Management Summons—RHC O.25	413
8.7 Preparations for Trial	415
8.8 Procedural Checklist for Hearsay Notices for Actions Commenced After 1 June 1999—Evidence Ordinance Part IV and RHC O.38 rr.20–22	419
8.9 Practical Checklist for Witness Statements	420
8.10 Practical Checklist for Instructing Experts	424

Sample Document

8.1 Notice of Intention to Adduce Hearsay Evidence	428
--	-----

CHAPTER 9 NEGOTIATION, MEDIATION & SETTLEMENT

1. Introduction	9.001
2. Negotiation Strategy: How and When to Move	9.005
3. Who Should Negotiate?	9.015
4. "Without Prejudice"	9.018
5. Sanctioned Offers/Sanctioned Payments (RHC O.22)	9.026
(a) Method of making sanctioned offer	9.031
(b) Method of making sanctioned payment	9.036
(c) Interest	9.040
(d) Taxed costs	9.042
(e) Clarification of sanctioned offer or sanctioned payment notice	9.043
(f) Amendment of sanctioned payment or offers	9.044
(g) Withdrawal or diminution of sanctioned offers or payments	9.045
(h) Confidentiality of sanctioned offers and payments	9.046
(i) Acceptance of sanctioned offers or payments	9.047
(j) Effect of acceptance on proceedings	9.049
(k) Costs consequences	9.050
(l) Consideration of sanctioned offer or sanctioned payment	9.058
(m) Sanctioned payment not accepted	9.060
5. Mediation	9.061
(a) What is Mediation?	9.061
(b) Role of a Mediator	9.065
(c) Stay of Legal Proceedings	9.068
7. Mediation Procedure	9.070
(a) The Mediation Certificate	9.070
(b) The Mediation Notice and Response	9.071
8. Adverse Costs Order	9.075
9. Confidentiality	9.078
10. Solicitor's Role in Mediation	9.082
11. Ethical Considerations When Negotiating or Mediating	9.085
12. Points to Cover in the Settlement	9.088
13. Formal Confirmation of the Settlement	9.091
(a) Notices of Discontinuance and Consent Orders	9.096
(b) <i>Tomlin</i> Order	9.102

Checklists

9.1 Negotiating Settlement	453
9.2 Without Prejudice/Sanctioned Payments and Offers	455
9.3 Sanctioned Payment: Acting for the Defendant	456
9.4 Sanctioned Payment: Acting for the Plaintiff	458
9.5 Sanctioned Offer: Acting for the Offeror	459
9.6 Sanctioned Offer: Acting for the Offeree	460

9.7 Mediation	461
9.8 Points to be Covered in Settlement Agreement	463
Sample Documents	
9.1 Sanctioned Offer (Made More Than 28 Days Before Trial)	
Without Prejudice Save as to Costs	465
9.2 Notice of Sanctioned Payment	466
9.3 Notice of Acceptance of Sanctioned Payment	468
9.4 Notice of Request for Payment	469
9.5 Mediation Minute	471
9.6 Settlement Agreement	473
9.7 Notice of Discontinuance	475
9.8 Order by Consent to Stay Proceedings	477
9.9 <i>Tomlin</i> Order	479
9.10 Consent Order	481

CHAPTER 10 PREPARING FOR TRIAL

1. Arranging the Trial in the High Court	10.001
(a) Case Management Conference—orders relevant for trial arrangement (RHC O.25)	10.001
(b) Instructing counsel	10.008
2. Listing Actions in the High Court	10.019
(a) The choice of list	10.019
(b) Particular proceedings	10.025
3. Setting an Action Down in the High Court	10.028
4. The Setting Down Bundle	10.031
(a) Listing actions in the Fixture List	10.034
(b) Listing actions in the Running List	10.040
5. Counsel and Legal Aid Cases	10.045
6. Factors Relevant to All Lists	10.046
7. Transfer Between the Lists	10.048
8. Listing Actions in the District Court	10.050
9. Evidence	10.051
(a) Real evidence	10.052
(b) Hearsay evidence	10.055
10. Securing the Attendance of Witnesses	10.057
(a) Voluntary witnesses	10.057
(b) Compelled witnesses	10.058
11. The Brief and Instructions to Appear at Trial	10.065
12. Negotiating Counsel's Fees	10.068
13. Final Interviews with the Client, Witnesses and Experts	10.072
14. Court Bundles	10.075
(a) The bundle of pleadings	10.075
(b) Documents in a foreign language	10.079

(c) Status of documents in the agreed bundle	10.089
(d) Plaintiff's documents bundle and defendant's documents bundle	10.093
(e) Bundles of transcripts, judgments and legal authorities	10.094
(f) Times for lodging	10.095
15. Statement of Agreed Facts	10.096
16. List of Authorities and Skeleton Arguments	10.099
17. Technology Court	10.101
18. A Transcript of the Trial and Interpreters	10.102
19. Pre-Trial Conference with Counsel	10.108
20. Practical Arrangements	10.110
21. Miscellaneous Organisational Matters	10.112
22. Court Dress and Seating Arrangements in Court	10.113
23. Solicitor's Role at Trial	10.114
(a) Order of speeches	10.123
24. Examination-in-Chief	10.125
25. Cross-Examination	10.130
26. Re-Examination	10.133
27. Recalling a Witness	10.135
28. Expert Evidence	10.136
29. Closing Speeches	10.138
30. Judgment	10.139
31. Post-Judgment Matters	10.141
32. Costs	10.146
(a) Fixed costs	10.149
(b) Discretionary costs	10.150
33. Different Bases on which Costs may be Taxed	10.154
(a) Party-and-party basis	10.154
(b) Common fund basis	10.156
(c) Indemnity basis	10.157
34. Taxation	10.158
(a) Provisional taxation	10.162
(b) The subject of the taxation hearing	10.163
(c) The procedure for taxation of costs	10.165
Checklists	
10.1 Preparing for Trial	514
10.2 At the Trial	521
Sample Documents	
10.1 Application to Set a Case Down for Trial	524
10.2 Notice of Setting Down	525
10.3 <i>Praeipere</i> for <i>Subpoena Ad Testificandum</i>	526

10.4 Writ of <i>Subpoena Ad Testificandum</i>	528
10.5 Instructions to Counsel and Brief	530

CHAPTER 11 DISTRICT COURT PROCEEDINGS

1. Should the Plaintiff Bring the Claim in the District Court or the High Court?	11.001
2. Claim Based on Contract, Quasi-Contract and Tort	11.002
(a) Claim for recovery of land	11.005
(b) Claim to title to an interest in land	11.008
(c) Claim in equity	11.010
3. Actions that cannot be Brought in the District Court	11.012
4. Transfer of Proceedings to and from the District Court	11.017
(a) Transfer of proceedings from the District Court	11.018
(b) Transfer of proceedings to the District Court	11.023
(c) Costs consequences if proceedings are transferred	11.027
5. Procedural Rules	11.028
6. Differences between Rules of the High Court and Rules of the District Court	11.029
(a) Principal differences	11.030
7. Pleadings in the District Court—Contents and Procedure	11.031
(a) Writ or originating summons	11.032
(b) Procedural matters	11.033
8. Interlocutory Applications	11.035
9. Trial	11.040
10. Costs and Taxation	11.041
11. Appeals	11.045
(a) Appeal from decision of a master	11.045
(b) Appeal from decision of a judge	11.049
12. Personal Injury Actions	11.052
13. Rights of Audience in the District Court	11.053
Checklists	
11.1 District Court or High Court—Which is the most Appropriate Forum?	547
11.2 Pleadings	548
11.3 Interlocutory Applications—Preparation for Hearing	549
Sample Document	
11.1 Sample Action Heading in District Court	550

CHAPTER 12 ENFORCEMENT

1. Introduction	12.001
2. <i>Ex Parte</i> Applications	12.004
3. Objective of the Procedures	12.005

4. Oral Examination of Judgment Debtors	12.006
(a) Introduction	12.006
(b) RHC O.48 and O.49B	12.007
(c) Application for the examination	12.009
(d) Ensuring the examinee's attendance	12.011
(e) The examination	12.016
(f) Other matters	12.020
5. Writ of <i>Fieri Facias</i>	12.026
(a) Introduction	12.026
(b) Leave to issue a writ of <i>fieri facias</i>	12.029
(c) Normal procedure leading to the issue of the writ of <i>fieri facias</i>	12.032
(d) Execution of the writ of <i>fieri facias</i>	12.036
(e) Ownership disputes	12.039
(f) Sale	12.041
(g) Extending validity of the writ of <i>fieri facias</i>	12.045
6. Garnishee Proceedings	12.047
(a) Introduction	12.047
(b) Application for a garnishee order	12.050
(c) Hearing to show cause	12.055
7. Charging Order	12.063
(a) Introduction	12.063
(b) The initial application	12.064
(c) The order to show cause	12.067
(d) The hearing for further consideration	12.071
8. Prohibition Order Under RHC O.44A and High Court Ordinance s.21B	12.077
Checklists	
12.1 Oral Examination of Judgment Debtor Under RHC O.48 and O.49B and High Court Ordinance s.21A	569
12.2 Sample Questions for Oral Examination of Judgment Debtor (RHC O.49)	571
12.3 Writ of <i>Fieri Facias</i>	575
12.4 Garnishee Proceedings (RHC O.49)	576
12.5 Charging Order (RHC O.50)	577
12.6 Prohibition Orders Under RHC O.44A and High Court Ordinance s.21B	579
Sample Documents	
12.1 Affidavit in Support of Application for Oral Examination	581
12.2 Order for Oral Examination	584
12.3 Order for Warrant of Arrest for Oral Examination	587
12.4 Order for Imprisonment Pending Oral Examination	590
12.5 Affidavit in Support of Application to Arrest for Oral Examination	593
12.6 Notice of Application for Order of Imprisonment	596
12.7 Affidavit in Support of Application for Order of Imprisonment	598
12.8 <i>Praecipe</i> for Writ of <i>Fieri Facias</i>	601
12.9 Writ of <i>Fieri Facias</i>	603
12.10 Undertaking for Security Guard Fees	605
12.11 Request to Bailiffs to Proceed with Execution	607

12.12 Affidavit in Support of Application for Garnishee Order	610
12.13 Garnishee Order <i>Nisi</i>	613
12.14 Garnishee Order Absolute	615
12.15 Affidavit in Support of Application for Prohibition Order Under RHC O.44A and High Court Ordinance s.21B	617
12.16 Prohibition Order	620
12.17 Letter to Immigration Department	622
12.18 Letter to Chief Bailiff	623
12.19 Letter to Commissioner of Police	624

CHAPTER 13 CIVIL APPEALS

1. Introduction	13.001
2. Deciding Whether to Appeal	13.004
(a) Likely benefits versus time, cost and effort	13.007
(b) Appealing against findings of fact or law	13.011
(c) Is the first instance decision "appeal-proof"?	13.012
(d) Other factors affecting the likelihood of success	13.016
(e) Judges' "grudges"	13.021
3. Appeals to the Court of First Instance from the Decision of a Tribunal, Government Department or Other Administrative Officer	13.022
(a) Commencing the appeal	13.022
(b) Procedure for sealing/filing the originating motion	13.025
(c) Time for entry and service of the appeal	13.028
(d) Date of the hearing	13.029
(e) Amendments to the grounds of appeal	13.031
(f) Documents for the hearing	13.032
4. Appeals from a Master to a Judge in Chambers	13.041
(a) Notice of appeal	13.041
(b) Procedure for issuance and filing of notice of appeal	13.044
(c) Time for issuance and service of notice of appeal	13.045
(d) Date of the hearing	13.046
(e) Documents for the hearing	13.048
5. Appeals From a Master to the Court of Appeal	13.053
6. Appeals to the Court of Appeal	13.054
(a) Leave to appeal	13.055
(b) Notice of appeal	13.063
(c) Time for service of the notice of appeal	13.065
(d) Filing the notice of appeal and setting down the appeal	13.068
(e) Respondent's notice	13.074
(f) Amendment of the notice of appeal and respondent's notice	13.078
(g) Appeal bundles	13.079
(h) Listing the appeal	13.085
(i) Skeleton arguments	13.086
7. Applications to the Court of Appeal	13.089
(a) Special provisions	13.092

8. Court of Final Appeal	13.094
(a) Jurisdiction	13.100
(b) Procedure	13.102

Checklists

13.1 Appeals to the Court of First Instance from a Tribunal, Government Department or other Administrative Officer (The Tribunal)	651
13.2 Appeals from a Master to a Judge in Chambers	653
13.3 Appeals to the Court of Appeal	655
13.4 Appeals to the Court of Final Appeal	657

Sample Documents

13.1 Notice of Appeal from a Master to a Judge in Chambers	659
13.2 Notice of Appeal to the Court of Appeal	662
13.3 Notice of Appeal to the Court of Appeal without Leave	665
13.4 Application to Fix a Date for the Hearing of an Appeal	668

CHAPTER 14 LEGAL AID

1. Introduction	14.001
2. Ordinary Legal Aid Scheme v Supplementary Legal Aid Scheme	14.003
3. Eligibility	14.007
4. Legal Aid Panel	14.017
5. Handling Legal Aid Cases	14.020
(a) Stay of proceedings	14.020
(b) Instructions from the Legal Aid Department	14.021
(c) Duty of the instructed solicitor throughout proceedings	14.028
(d) Conclusion of proceedings	14.032
6. First Charge of the Director	14.036
7. Obtaining Costs from a Legally-Aided Person	14.044

Checklist

14.1 Legal Aid	678
----------------------	-----

Sample Documents

14.1 Legal Aid Panel (Solicitor)	680
14.2 Application for Extension of Legal Aid Certificate	685
14.3 Application for Extension of Legal Aid Certificate in Employees' Compensation Cases	687

CHAPTER 15 ARBITRATION

1. Introduction	15.001
2. What is Arbitration?	15.006
(a) The unitary regime	15.009
(b) Advantages and disadvantages of arbitration	15.012
(c) Objectives and principles of the ordinance	15.014
(d) Arbitration agreements	15.016

3. Hong Kong International Arbitration Centre (HKIAC)	15.019
(a) Outline of arbitration procedure	15.024
4. Extension of Time Limits for Commencing Arbitration Proceedings	15.033
5. General Powers Exercisable by the Arbitral Tribunal	15.034
(a) Peremptory order where party in default	15.041
(b) Dismissal or stay of proceedings	15.045
(c) Determination of the validity of an arbitration agreement	15.049
(d) Restricting costs of proceedings	15.050
(e) Third party funding	15.051
6. Role of the Court in Arbitration Proceedings	15.053
(a) Application for an order that Court proceedings be stayed in favour of arbitration	15.053
(b) Court's jurisdiction to assist	15.065
(c) Court's supervisory jurisdiction	15.095
(d) Assistance and supervision by the Court—application procedure	15.111
7. Alternative Dispute Resolution	15.139
(a) Introduction	15.139
(b) Consensual ADR	15.142
(c) Mediation	15.146
(d) Summary	15.162
Checklists	
15.1 Application for an Order that Court Proceedings be Stayed in Favour of Arbitration	723
15.2 Seeking the Court's Assistance or Supervision—Application Procedure where there is no Pending Action	725
15.3 Seeking the Court's Assistance or Supervision—Application Procedure where there is a Pending Action	728
15.4 Factors Relevant in the Decision whether to Use ADR	730
Sample Documents	
15.1 Summons Seeking a Stay of Court Proceedings in Favour of Arbitration	731
15.2 Affidavit in Support of Application to Stay Court Proceedings in Favour of Arbitration	733
15.3 Originating Summons Seeking Interim Order for Preservation of Subject Matter of an Arbitration	736
15.4 Affidavit in Support of Application for Interim Preservation of Property Order	739
Resources	743
Index	745

TABLE OF CASES

HONG KONG

A v R [2009] 3 HKLRD 389	15.089
AO Smith Holdings (Barbados) SRL v Zhang Dacheng (HCMP 1132/2011, [2012] HKEC 793)	6.161
Abbott GmbH & Co KG v Pharmareg Consulting Co Ltd [2009] 3 HKLRD 524	6.044
Allington Investments Corp v First Pacific Bankshares Holdings Ltd [1995] 2 HKC 139	7.005
Antwerp Diamond Bank NV v Brink's Incorporated (No 2) [2015] 4 HKLRD 628	9.056
Arrow ECS Norway AS v M Yang Trading Ltd (HCA 239/2016, [2016] HKEC 2058)	5.022
Attorney-General v Shimizu Corp [1997] HKLRD 297	15.029
AVCO Financial Services (Asia) Ltd v Topma Electronics Ltd [1999] 4 HKC 193	12.079
AVT v VNT [2016] 1 HKLRD 821	9.057
Billion Silver Development Ltd v All Wide Investments Ltd [2000] 2 HKC 262	5.007
Brisilver Investment Ltd v Wong Fat Tso [1998] 2 HKLRD 104	7.044
Brown v Lehman (CACV 119/2012, [2016] HKEC 1651)	4.008
CEP Ltd v Wuxi Jiacheng Solar Energy Technology Co Ltd [2016] 1 HKLRD 960	9.029, 9.030, 9.056
Chan Yim Wah v New World First Ferry Services Ltd [2015] 3 HKC 382	7.045
China Xinxing Corp v Mid-Point Development Ltd [1993] 1 HKC 629	15.066
Chinacast Education Corp v Chan Tze Ngon [2014] 5 HKC 277	7.024
Chung Fai Engineering Co v Maxwell Engineering Co Ltd [2001] 3 HKC 24	13.066
Citic Pacific Ltd v Secretary for Justice (No 2) [2015] 4 HKLRD 20	1.047, 7.012
Common Luck Investment Ltd v Director of Legal Aid [2001] 1 HKC 26	14.033
Continental Mark Ltd v Verkehrs-Club De Schweiz [2001] 4 HKC 469 (CFI)	12.004
Continental Mark Ltd v Verkehrs-Club De Schweiz [2002] 2 HKC 513 (CA)	12.004
Easey Garment Factory Ltd v Attorney-General (HCA 2197/2009, [2011] HKEC 761)	7.050
Excel Courage v Holding Ltd v Wong Sing Lai [2014] 3 HKLRD 642	13.014
Global Bridge Assets Ltd v Sun Hung Kai Securities Ltd [2011] 4 HKC 9	4.043